

SUBCHAPTER C : LAKE TAWAKONI RESERVOIR

§284.41. Definitions.

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

Authority - The Sabine River Authority.

Commission - The Texas Water Commission.

Executive director - The executive director of the Texas Water Commission.

Lake Tawakoni Reservoir - The reservoir located in Rains, Hunt, and Van Zandt Counties of Texas, created by the construction of the Iron Bridge Dam on the Sabine River by the Sabine River Authority of Texas.

Organized disposal system - Any public or private system for the collection, treatment, and disposal of sewage operated in accordance with the terms and conditions of a permit from the Texas Water Commission.

Private sewage facilities - All facilities, systems, and methods used for the disposal of sewage other than disposal systems operated under a permit issued by the commission.

Sewage - Waterborne human or other domestic waste.

Subdivision:

(A) A subdivision which has been platted and recorded with the county clerk of the county or counties in which the land lies, or which is required by statute to be so platted and recorded; or

(B) Any land divided or proposed to be divided into four or more lots or tracts, any of which is two acres or less in size.

Take line - The limit of land acquisition for the Lake Tawakoni Reservoir.

§284.42. Regulated Area.

The regulated area is the area for which regulations of this subchapter apply. It is an area in the State of Texas surrounding Lake Tawakoni Reservoir lying between the take line and a line parallel to it which is 2,000 feet from the take line, measured horizontally away from the reservoir.

§284.43. Discharge of Sewage Within the Regulated Area.

All sewage disposal within the regulated area shall be in accordance with one of the following types of authorizations:

(1) sewage discharged into an organized waste disposal system operating under a valid permit issued by the commission;

(2) sewage discharged into a private sewage facility licensed in accordance with the regulations contained in this subchapter; and

(3) sewage discharged into a private sewage facility registered in accordance with the regulations contained in Texas Water Quality Board rules 130.12.16.002-.016.

§284.44. Licensing Function.

(a) The Sabine River Authority is designated by the commission to perform all of the licensing functions of this subchapter.

(1) The authority shall have the following powers:

(A) to make reasonable inspections of all private sewage facilities located or to be located within the area covered by this subchapter; and

(B) to collect all fees set by the authority necessary to recover all the costs incurred in meeting the requirements of this subchapter.

(2) The authority shall have the following responsibilities:

(A) to make semiannual reports to the executive director on all actions taken concerning this subchapter; and

(B) to perform all the duties necessary to meet the requirements of this subchapter.

(b) Upon a showing of necessity, the commission may assume all of the powers and responsibilities delegated to the authority by this subchapter.

§284.45. Licensing Requirements for New Private Sewage Facilities.

(a) Private sewage facilities to be located within the boundaries of the regulated area or to be located within a subdivision existing prior to April 1, 1974, in the regulated area must meet the following requirements:

(1) The private sewage facility must conform to the minimum standards set out by the Texas Department of Health.

(2) A license must be obtained for the use of these facilities from the authority.

(3) The lot or tract in question must be large enough, considering the soil and drainage conditions and probable volume of sewage to be disposed of, to permit the use of a private sewage facility without causing water pollution, nuisance conditions, or danger to public health.

(b) A new subdivision to be developed within the regulated area on or after April 1, 1974, and utilizing private sewage facilities, must meet the following requirements:

(1) The installation of the private sewage facility must conform to the minimum standards set out by the Texas Department of Health.

(2) A license must be obtained for the private sewage facility from the authority.

(c) The following shall apply to new private sewage facilities.

(1) Any license issued under the authority of this subchapter will be transferred to a succeeding owner, and such license will continue in existence for the unexpired term of the license provided the new owner applied to the authority, and provided there is no significant change in amount or quality of waste to be placed in the private sewage facility. The authority will charge a transfer fee whenever a license is transferred to a succeeding owner.

(2) Application forms for licenses may be obtained from the authority and from the offices of the judges of Rains, Hunt, and Van Zandt Counties. In order to initiate an application for a license, the completed application form, together with the appropriate fee, shall be filed with the authority.

(3) The authority will perform such inspections and tests as may be deemed necessary as soon as practicable.

(4) Upon a finding by the authority that use of the private sewage facility will not cause pollution or injury to the public health and is not in conflict with the terms and regulations of this subchapter, a license effective for a term of five years will be issued. At the end of five years, the system will be reinspected and an inspection fee assessed. A new license issued under these terms may be renewed for successive terms of five years.

(5) Upon a finding by the authority that the private sewage facility will not be licensed, the applicant shall be notified in writing of that finding and of the defects which prevent licensing.

§284.46. Approval of Subdivision Plans for Sewage Facilities.

(a) Any developer or other interested person desiring to create a subdivision using private sewage facilities must obtain approval from the authority of his plans for sewage disposal. He or she must fulfill the following requirements:

(1) An application for approval of the subdivision sewage disposal plans and appropriate filing fee shall be submitted to the authority.

(2) The developer shall inform each prospective buyer:

(A) that the subdivision is subject to all of the terms and conditions of this subchapter;

(B) that a license will be required for any private sewage facility constructed in the subdivision; and

(C) that a sewage disposal plan has been filed for the subdivision and that the areas suitable for private sewage facilities have been defined.

(3) If investigation pursuant to this section reveals that a lot is not suitable for use of private sewage facilities, the prospective buyer shall be so notified.

(b) The authority will perform necessary tests and inspections to determine whether the subdivision can be served with private sewage facilities. By agreement between the authority and the developer, all or part of the tests may be performed by an engineering firm or soils-testing laboratory approved by the authority. The authority will notify the developer of the findings of its examination and will point out any deficiencies in the plan for sewage disposal. Specifically, the authority will notify the developer of any areas not suitable for the use of private sewage facilities and whether the proposed developmental density is consistent with the use of private sewage facilities. Approval of a subdivision plan for sewage disposal does not constitute a license for a specific private sewage facility. An approved plan is, however, a prerequisite for obtaining a private sewage facility license in a subdivision.

§284.47. Existing Private Sewage Facilities.

(a) Licenses and registrations issued for private sewage facilities pursuant to Texas Water Quality Board rules 130.16.16.002-.016 then in effect, now this subchapter, will remain in effect for the term stated therein as if issued under this subchapter.

(b) A registration issued under the authority of Texas Water Quality Board rules 130.12.16.002-.016 will be transferred to a succeeding owner, and such registration will continue in existence provided the new owner applies to the authority.

(c) Registration issued under the authority of Texas Water Quality Board rules 130.12.16.002-.016 will not bar any action to abate a nuisance as defined in Texas Civil Statutes Article 4477-1. If a registered system is found to be malfunctioning, the authority may require licensing in accordance with 284.45 of this title (relating to Licensing Requirements for New Private Sewage Facilities).

(d) Licenses for private sewage facilities issued by the authority pursuant to Texas Department of Water Resources rules §§371.41 - 371.55 of this title (rules relating to Lake Tawakoni Reservoir replaced by this subchapter) shall remain in effect for the term stated therein as if issued under this subchapter.

§284.48. Connection of Private Sewage Facilities to Organized Waste Collection, Treatment, and Disposal Systems.

In order to implement the stated policy of the legislature and the commission that the development and use by interested and affected parties of organized waste collection, treatment, and disposal systems to serve the waste disposal needs of the citizens of the state and to prevent pollution and maintain and enhance the quality of water in the state should be encouraged, the commission makes the following requirements:

(1) No license shall be issued for any private sewage facility when any part of that facility is closer than 300 feet in horizontal distance to an organized waste collection, treatment, and disposal system; rather, the facility shall be connected to the organized system whenever feasible and legally possible.

(2) Whenever an organized waste collection, treatment, and disposal system is developed to within 300 feet in horizontal distance from any part of a private sewage facility, licensed or not, that facility shall be connected to the organized system whenever feasible and legally possible.

§284.49. Terms and Conditions for Granting Exceptions.

The commission intends that the regulations contained in this subchapter shall be strictly enforced, but realizes that certain individual situations may require the granting of an exception to the requirements contained in the subchapter so that hardships may be avoided. Therefore, the following terms and conditions are established:

(1) Any person desiring an exception shall file an application with the authority for its analysis of the specifics of the situation.

(2) The authority shall review the application and issue a statement either granting or denying the application. When an application is denied, the statement shall set out the reasons for the authority's decision.

§284.50. Terms and Conditions of Appeal.

(a) The commission intends that any disputes concerning the application of this subchapter to individual situations be negotiated to conclusion between the licensing authority and the individuals involved, if possible. However, any person aggrieved by an action or decision of the licensing authority may appeal to the Texas Water Commission if the following terms and conditions are met:

(1) All of the appropriate steps required by the aggrieved person by the terms and conditions of this subchapter have been met.

(2) The aggrieved person has made a conscientious effort to resolve his problems with the licensing authority.

(b) Appeal is properly made by the aggrieved party by filing a written statement stating with specificity the nature of the grievance. This statement is to be filed with the executive director of the commission who will then cause notice of the appeal to be issued to the licensing authority. The executive director will then forward the appeal to the Texas Water Commission for its consideration.

§284.51. Cooperative Agreement.

The authority and the executive director may execute a cooperative agreement pursuant to Texas Water Code Chapter 26, providing for the performance by the authority of the water quality management, inspection, and enforcement functions required to be performed by the authority under this subchapter.

§284.52. Fees.

License fees, inspections fees, transfer fees, and renewal fees will be in accordance with §284.55 of this title (relating to Fee Schedule). These fees shall be paid to and collected by the authority so long as the authority is delegated the licensing function and the administration of the licensing system specified in this subchapter. The establishment of the fee schedule does not impair or prohibit the imposition of reasonable charges by the authority for special services performed by the authority at the request of the applicant in connection with presentation of an application and required data. Percolation tests and other examinations will be performed by the authority on a cost basis. These tests may also be performed by engineering firms or soils testing laboratories approved by the authority.

§284.53. Enforcement.

(a) Criminal penalty, Texas Water Code §26.214.

(1) A person who violates any provision of this subchapter is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$200. Each day a violation occurs constitutes a separate offense.

(2) Jurisdiction for prosecution of a suit under this section is in the justice of the peace courts.

(3) Venue for prosecution of a suit under this section is in the justice of the peace precinct in which the violation is alleged to have occurred.

(b) Civil penalty. A person who violates any provision of this subchapter is subject to an injunction by court order and to a civil penalty for each act of violation and for each day of violation, to be recovered as provided in Texas Water Code Chapter 26.

§284.54. Severability Clause.

If any provision of this subchapter or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the subchapter and of the application of such provision to other persons and circumstances shall not be affected thereby.

§284.55. Fee Schedule.

The authority shall establish a fee schedule for the private sewage facilities regulatory program around Lake Tawakoni and maintain a copy of such fee schedule at the authority's offices for inspection by the public. Such fee schedule shall set reasonable fees for services performed by or at the direction of the authority and may, subject to applicable laws, be amended by the authority from time to time.